

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND

IN RE:
CRAIG W. BOYKO, SR. A/K/A
CRAIG W. BOYKO
Debtor

CASE NO.: 09-2-0553-DK

METLIFE HOME LOANS A DIVISION OF METLIFE BANK NA
Movant

CHAPTER 7

vs.
CRAIG W. BOYKO, SR. A/K/A
CRAIG W. BOYKO
Marc H. Baer, Trustee
Respondent

**MOTION TO MODIFY STAY TO PERMIT
FORECLOSURE OF THE DEED OF TRUST**

Now come the Movant by its attorneys Friedman & MacFadyen, P.A., Michael T. Cantrell, Esquire and Diana C. Theologou to respectfully represents unto this court:

1. On or about June 11, 2009 the debtor filed a voluntary petition under the provisions of 11 U.S.C. Chapter 7.

2. Marc H. Baer is the appointed Trustee in this case and is being joined as a party interest.

3. The bankruptcy court has jurisdiction over this proceeding pursuant to 28 U.S.C. Section 1334 and 11 U.S.C. Section 362(a) and 28 U.S.C. Section 157.

4. At the time of the initiation of these proceedings, the debtor is the owner of a parcel of real estate located in Baltimore City, as described in the attached Non-Principal Refinance Deed of Trust also known as:

1143 Haubert Street Baltimore, MD 21230

5. The debtor is justly indebted to MetLife Home Loans a division of MetLife Bank NA pursuant to a Non-Principal Refinance Deed of Trust recorded among the Land Records of Baltimore City in Liber 08498 Page 0199. A copy of this Non-Principal Refinance Deed of Trust and Adjustable Rate Note is attached hereto as movant's exhibit "A".

6. The debtor is now in default on the payment of installments due under the Non-Principal Refinance Deed of Trust to the secured creditor.

7. The principal balance due and owing your Movant pursuant to the Non-Principal Refinance Deed of Trust is approximately Two Hundred Thirty One Thousand and 00/100 Dollars (\$231,000.00) through August, 2009.

8. The debtor is presently delinquent in excess of Thirty Two Thousand Seven Hundred Eleven and 1/100 dollars (\$32,711.01) through August, 2009.

9. The amount necessary to pay the total debt through August, 2009 is approximately Two Hundred Sixty Three Thousand Seven Hundred Eleven and 1/100 dollars (\$263,711.01).

10. The debtor is not made fifteen (15) monthly mortgage payments due and owing your Movant through August, 2009.

11. The Movant believes and avers that there will be no equity in said property if the total liens of foreclosure, including interest, costs and attorneys fees exceed the value of the property.

12. The interest of the Movant in the said property is not adequately protected.

13. Further, the Movant avers that it has been and continue to be irreparably injured by the automatic stay afforded pursuant to 362(a) of the Bankruptcy Code, which prevents the exercise of rights under the parties Non-Principal Refinance Deed of Trust.

14. Cause exists for lifting the automatic stay of 362(a) of the Bankruptcy Code to permit the Movant to enforce its rights under the Non-Principal Refinance Deed of Trust.

WHEREFORE, your Movant request:


A. That this court enter an Order lifting the automatic stay afforded the debtor by 11 U.S.C. Section 362(a) to enable the Movant to proceed with the foreclosure sale of the said real property.

B. That this court waive the stay referenced in Federal Rule of Bankruptcy Procedure 4001(a) (3).

C. That this court grant such other and further relief as it deems necessary.

Friedman & MacFadyen, P.A.

/s/ Michael T. Cantrell
Michael T. Cantrell, Esquire
210 E. Redwood Street
Baltimore, Maryland 21202-3399
Attorney for the Movant
Bar No.: 08793

/s/ Diana C. Theologou 
Diana C. Theologou, Esquire
210 E. Redwood Street
Baltimore, Maryland 21202-3399
Attorney for the Movant
Bar No.: 14284

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CERTIFICATE OF SERVICE

I hereby certify and affirm under the penalties of perjury that I served copies of the foregoing Motion to Modify Stay to Permit Foreclosure of the Deed of Trust and Notice of Motion for Relief from Stay and Hearing Thereon via the ECF system and/or first class mail, postage prepaid to: Constance M. Hare, Esquire, 723 South Charles Street, Suite LL3, Baltimore MD 21230; U.S. Trustee, 101 W. Lombard St., Room 2625, Baltimore MD 21201; Marc H. Baer, Trustee, 455 Main Street, Reisterstown MD 21136; Craig W. Boyko, Sr. 1143 Haubert Street, Baltimore MD 21230; Craig W. Boyko, Sr. 8414 Gullane Court, Pasadena MD 21122 on August 17, 2009.

Friedman & MacFadyen, P.A.

/s/ Michael T. Cantrell
Michael T. Cantrell, Esquire

/s/ Diana C. Theologou 
Diana C. Theologou, Esquire